

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

RONNIE GUARNIERI,

Plaintiff,

**3:19-cv-318
(GLS/ML)**

v.

ERIC KELLEY et al.,

Defendants.

ORDER

On April 4, 2019, Magistrate Judge David E. Peebles issued an Order, Report, and Recommendation (R&R), which recommends that plaintiff *pro se* Ronnie Guarnieri's complaint, (Compl., Dkt. No. 1), be dismissed, with leave to replead. (Dkt. No. 10.) Pending before the court are Guarnieri's objections¹ to the R&R. (Dkt. No. 15.) For the reasons that follow, the R&R is adopted in its entirety.

When a report and recommendation is filed, the parties have fourteen (14) days from receipt of the report to file specific, written objections to proposed findings and recommendations. See 28 U.S.C.

¹ Guarnieri has submitted a document labeled "Answer to Court Recommendation." (Dkt. No. 15.) In an abundance of caution and due to the liberality with which *pro se* actions are to be treated, the court construes Guarnieri's submission as objections to the R&R.

§ 636(b)(1)(C); Fed. R. Civ. P. 72(b)(2); N.D.N.Y. L.R. 72.1(c). Guarnieri's objections were due on or before April 22, 2019, however, he did not object until May 7, 2019, (Dkt. No. 15), making his objections untimely.

Nevertheless, in light of Guarnieri's *pro se* status, the court has considered his untimely objections for clear error. *See Almonte v. N.Y. State Div. of Parole*, No. Civ. 904CV484, 2006 WL 149049, at *5 (N.D.N.Y. Jan. 18, 2006). The court, having carefully reviewed the record, finds no clear error in the R&R and adopts it in its entirety.

Accordingly, it is hereby

ORDERED that the Order, Report, and Recommendation (Dkt. No. 10) is **ADOPTED** in its entirety; and it is further

ORDERED that Guarnieri's complaint (Compl.) is **DISMISSED**, with leave to replead within thirty days of the date of this Order; and it is further

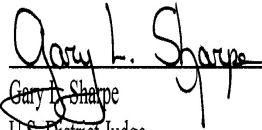
ORDERED that, if Guarnieri files a timely amended complaint, the Clerk shall forward it to the Magistrate Judge for review; and it is further

ORDERED that, if Guarnieri fails to file an amended complaint within the time allotted, the Clerk shall enter judgment dismissing this action without further order of the court; and it is further

ORDERED that the Clerk provide a copy of this Order to Guarnieri.

IT IS SO ORDERED.

October 30, 2019
Albany, New York



Gary L. Sharpe
U.S. District Judge